

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of WorldCom Technologies, Inc. against BellSouth Telecommunications, Inc. for breach of terms of Florida Partial Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996, and request for relief.

DOCKET NO. 971478-TP

In re: Complaint of Teleport Communications Group Inc./TCG South Florida against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement under Section 252 of the Telecommunications Act of 1996, and request for relief.

DOCKET NO. 980184-TP

In re: Complaint of Intermedia Communications, Inc. against BellSouth Telecommunications, Inc. for breach of terms of Florida Partial Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 and request for relief.

DOCKET NO. 980495-TP

In re: Complaint by MCI Metro Access Transmission Services, Inc. against BellSouth Telecommunications, Inc. for breach of approved interconnection agreement by failure to pay compensation for certain local traffic.

DOCKET NO. 980499-TP
ORDER NO. PSC-99-0758-FOF-TP
ISSUED: April 20, 1999

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980194-TP, 980498-TP, 980499-TP
PAGE 2

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER DENYING MOTION FOR STAY PENDING APPEAL

BY THE COMMISSION:

BACKGROUND

On October 15, 1998, BellSouth Telecommunications, Inc. (BellSouth) filed a Notice of Appeal of Commission Order No. PSC-98-1216-FOF-TP, issued September 15, 1998, in the complaint dockets referenced above. BellSouth has appealed the Commission's decision to the United States District Court for the Northern District of Florida, pursuant to 47 U.S.C. section 252(e)(6). In Order No. PSC-98-1216-FOF-TP, the Commission determined that BellSouth was required by the terms of its interconnection agreements to pay reciprocal compensation to WorldCom Technologies, Inc. (WorldCom), Teleport Communications Group, Inc. (TCG), Intermedia Communications, Inc. (Intermedia), and MCImetro Access Transmission Services, Inc. (MCIm) for the transport and termination of calls to Internet Service Providers (ISPs). At the time BellSouth filed its Notice of Appeal with the Commission, it also filed a Motion for Stay Pending Appeal of Order No. PSC-98-1216-FOF-TP. WorldCom, TCG, Intermedia and MCIm filed a Joint Response in Opposition to the motion for stay on October 28, 1998. No party filed a request for oral argument.

We addressed BellSouth's Motion at our March 30, 1999, Agenda Conference. We determined that BellSouth had failed to demonstrate that a stay pending appeal is warranted. Our reasons for that determination are set forth below.

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 3

DECISION

BellSouth contends that it is entitled to an automatic stay pending judicial review pursuant to Rule 25-22.061(1)(a), Florida Administrative Code, because the Commission's order on appeal "involves a refund of moneys to customers." In the alternative, BellSouth contends that we should grant its motion pursuant to Rule 25-22.061(2), Florida Administrative Code, because it has raised serious questions, acknowledged in our Order, about the jurisdictional nature of ISP traffic. BellSouth also contends that it will be irreparably harmed if we require it to pay the complainants charges for transport and termination of traffic to ISPs, because millions of dollars are at stake. BellSouth suggests that it may not be able to recoup some of the payments to the complainants if it ultimately prevails on appeal. BellSouth argues that the delay in implementation of the Commission's order will not be contrary to the public interest or cause substantial harm to the complainants, because BellSouth has already placed monies due to WorldCom under the Order in escrow, and will be able to return the amounts owed to the other complainants as well, when the appeal is final. Finally, BellSouth contends that it will not be necessary to require BellSouth to post a bond or issue some other corporate undertaking as a condition of the stay, as Rules 25-22.061(1)(a) and 25-22.061(2), Florida Administrative Code, permit.

The Complainants urge us to deny the motion for stay for three reasons. First, they claim that we do not have authority to grant a stay pending review of a case in the Federal District Court. Second, they argue that if we determine that we do have the authority to grant a stay, BellSouth is clearly not entitled to one under Rule 25-22.061(1)(a), Florida Administrative Code, because the refund in question here is not due to "customers", as the rule contemplates. Third, they contend that BellSouth is not entitled to a stay pursuant to the discretionary stay available under Rule 25-22.061(2), Florida Administrative Code. They argue that BellSouth is not likely to prevail on appeal, and will not suffer irreparable harm if the stay is not granted. They contend that further delay will harm the development of competition and the public interest.

Authority to Grant a Stay Pending Appeal

The Telecommunications Act of 1996, at 47 U.S.C. § 252(e)(6), provides that determinations of state commissions made under the provisions of section 252 are reviewable in an appropriate Federal

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 4

District Court. BellSouth has appealed the Commission's order to the District Court of the Northern District of Florida. Relying on a recent decision by the 7th Circuit that the District Court for the Northern District of Illinois should not have granted a stay of the Illinois Commerce Commission's ISP reciprocal compensation order¹, the complainants argue, somewhat obliquely, that because BellSouth must seek an injunction in the District Court, rather than a stay, to delay the effectiveness of this Commission's order there, we somehow lose authority to grant a stay of the order. We do not agree. The Commission's rules provide for a stay of its decisions under certain circumstances, and both Florida appellate rules and Federal appellate rules provide that a party may seek a stay from the lower tribunal of an order on appeal, whether the lower tribunal is an administrative agency or a lower court. See Section 120.68(3), Florida Statutes, Rule 9.010, Florida Rules of Appellate Procedure, and Rule 18, Federal Rules of Appellate Procedure. While we do not believe that we should grant a stay of Order No. PSC-98-1216-FOF-TP, we do believe that we have the authority to do so.

Rules 25-22.061(1)(a) and 25-22.061(2), Florida Administrative Code

Rule 25-22.061(1)(a), Florida Administrative Code, provides:

When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good and sufficient bond, or the posting of a corporate undertaking, and such other conditions as the Commission finds appropriate.

BellSouth relies upon this rule as authority for an automatic stay of our decision interpreting the local traffic transport and

¹Illinois Bell Telephone Company v. WorldCom Technologies, Inc., 157 F.3d 500 (7th Cir. 1998).

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980194-TP, 980495-TP, 980499-TP
PAGE 5

termination provisions of its interconnection agreements with the complainants. This rule does not apply to this case, because, contrary to BellSouth's assertion, the complainants, competitive telecommunications carriers, are not "customers" for purposes of this rule. The rule is designed to apply to rate cases or other proceedings involving rates and charges to end user ratepayers or consumers, not to contract disputes between interconnecting telecommunications providers. Furthermore, this case does not involve a "refund" or a "decrease" in rates. It involves payment of money pursuant to contractual obligations.

Rule 25-22.061(2), Florida Administrative Code, is applicable to this case. That rule provides:

Except as provided in subsection (1), a party seeking to stay a final or nonfinal order of the Commission pending judicial review shall file a motion with the Commission, which shall have authority to grant, modify, or deny such relief. A stay pending review may be conditioned upon the posting of a good and sufficient bond or corporate undertaking, other conditions, or both. In determining whether to grant a stay, the Commission may, among other things, consider:

- (a) Whether the petitioner is likely to prevail upon appeal;
- (b) Whether the petitioner has demonstrated that he is likely to suffer irreparable harm if the stay is not granted; and
- (c) Whether the delay will cause substantial harm or be contrary to the public interest.

In its motion, BellSouth claims that it has raised issues of great importance regarding the appropriate treatment of ISP traffic. BellSouth's fundamental point is that if ISP traffic is jurisdictionally interstate, then the transport and termination of that traffic is not subject to the local traffic reciprocal compensation provisions of its interconnection agreements with the complainants.

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 6

At the time Order No. PSC-98-1216-FOF-TP was issued, and at the time this motion for stay and response were filed, the FCC had not decided whether it would consider ISP traffic interstate traffic, or whether such traffic would be subject to reciprocal compensation under the local interconnection provisions of the Act. We addressed the uncertainty regarding the FCC's characterization of ISP traffic in detail in our Order, and we decided that the issue was not critical to our decision. Basing our decision on traditional principles of contract construction, we decided that the language of the interconnection agreements, the intent of the parties, and Federal and State law at the time the agreements were executed showed that ISP traffic was local traffic for purposes of reciprocal compensation under the agreements. We said:

Regardless of what the FCC ultimately decides, it has not decided anything yet, and we are concerned here with an existing interconnection agreement, executed by the parties in 1996. Our finding that ISP traffic should be treated as local for purposes of the subject interconnection agreement is consistent with the FCC's treatment of ISP traffic at the time the agreement was executed, all pending jurisdictional issues aside.

Order No. PSC-98-1216-FOF-TP, page 9.

On February 26, 1999, the FCC issued Order 99-38, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 98-68. In that Order, the FCC declared that it considered ISP traffic to be jurisdictionally interstate. It did not decide, however, whether ISP traffic should be treated as interstate traffic for purposes of local interconnection agreements. It issued a NPRM inviting comments on that issue. It also declared that it considered this determination to be prospective only, and specifically stated that its decision should not affect existing interconnection agreements or decisions by state commissions and Federal courts. The FCC stated:

[I]n the absence of any contrary Commission rule, parties entering into interconnection agreements may reasonably have agreed, for the purposes of determining whether reciprocal compensation should apply to ISP-bound

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 7

traffic, that such traffic should be treated in the same manner as local traffic. When construing the parties' agreements to determine whether the parties so agreed, state commissions have the opportunity to consider all the relevant facts, including the negotiation of the agreements in the context of this Commission's longstanding policy of treating this traffic as local, and the conduct of the parties pursuant to those agreements. . . .

While to date the Commission has not adopted a specific rule governing this matter, we note that our policy of treating ISP-bound traffic as local for purposes of interstate access charges would, if applied in the separate context of reciprocal compensation, suggest that such compensation is due for that traffic.

Order 99-38 at pages 15-17.

As mentioned above, BellSouth based its argument that it is likely to prevail on appeal on the fact that the FCC would determine that ISP traffic was jurisdictionally interstate. While the FCC has now done that, its firm assertion that the determination is prospective and should not affect existing interconnection agreements convinces us that BellSouth is not likely to prevail on appeal.

With regard to BellSouth's assertion that it will suffer irreparable harm if it must comply with the order at this time, and its concomitant assertion that there will be no harm to the public interest if the stay is granted, we adopt the reasoning of the 7th Circuit Court of Appeals when it denied Ameritech's motion for stay in Illinois Bell:

In this case the cost of false negatives ("irreparable injury," to use the traditional term) are negligible. Ameritech can easily recover the money if it prevails on appeal. All of the other carriers are solvent, and Ameritech can recoup by setoff in the ongoing reciprocal-compensation program. . . . Even if

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 8

Ameritech pays the market cost of capital during the period of delay, so that the other carriers are indifferent between money now and money later, delay impedes the ability of the Illinois Commerce Commission to implement a policy of reciprocal compensation. Delay effectively moves regulatory power from the state commission to the federal court (or to Ameritech, which can determine when orders take effect). Although such transfers may be of little moment one case at a time they are disruptive when repeated over many cases - and the struggle in the communications business between the Baby Bells and their rivals is a repeat-play game in markets, agencies, and courts alike.

Illinois Bell Telephone Company v. WorldCom Technologies, 157 F.3d 500, 503.

The harm to the development of competition from further delay is the discernible harm in this case. Harm to the development of competition is harm to the public interest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, for the reasons set forth above, BellSouth Telecommunications, Inc.'s Motion for Stay Pending Appeal is denied. It is further

ORDERED that these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of April, 1999.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

ORDER NO. PSC-99-0758-FOF-TP
DOCKETS NOS. 971478-TP, 980184-TP, 980495-TP, 980499-TP
PAGE 9

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

WIGGINS & VILLACORTA, P.A.
ATTORNEYS AT LAW

POST OFFICE DRAWER 1657
TALLAHASSEE, FLORIDA 32302

2145 DELTA BOULEVARD, SUITE 200
TALLAHASSEE, FLORIDA 32303

TELEPHONE (850) 385-6007
FACSIMILE (850) 385-6008
INTERNET: wiggvill@netally.com

May 4, 1999

BY HAND DELIVERY

Ms. Nancy Sims, Director of Regulatory
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, FL 32301

Re: Demand for Payment of Reciprocal Compensation

Dear Ms. Sims:

Further to my letter of January 8, 1999, demand is hereby renewed that BellSouth Telecommunications, Inc. pay to Intermedia Communications Inc., thirty four million, five hundred sixty three thousand, seven hundred and eighty dollars and forty nine cents (\$34,563,780.49), which represents the reciprocal compensation payments now due and owing to Intermedia in Florida as of March 30, 1999,¹ under the interconnection agreement between BellSouth and Intermedia dated July 1, 1996, as amended. Reciprocal compensation amounts accruing after March 30, 1999, will be submitted to you for payment in a separate demand letter.

Intermedia's right under its interconnection agreement to receive compensation from BellSouth for the transport and termination of local calls, including those calls destined to Internet Service Providers, was confirmed by the Florida Public Service Commission in its Final Order Resolving Complaints, Order No. PSC-98-1216-FOF-TP, Consolidated Docket Nos. 971478-TP, 980184-TP, 980495-TP and 980499-TP (issued September 15, 1998). That Order states, in relevant part:

ORDERED by the Florida Public Service Commission that under the terms of the parties' Interconnection Agreement, BellSouth Telecommunications, Inc. is required to pay WorldCom Technologies, Inc., Teleport Communications Group Inc./TCG South Florida, Intermedia Communications Inc., and MCI Metro

¹ Net, including payments received in April 1999.

Nancy Sims.
April 30, 1999
Page Two

Access Transmission Services, Inc., reciprocal compensation for the transport and termination of telephone exchange service that is terminated with end users that are Internet Service Providers or Enhanced Service Providers. BellSouth Telecommunications, Inc. must compensate the complainants according to the interconnection agreements, including interest, for the entire period the balance owed is outstanding. (Order at 22.)

On April 20, 1999, the Commission issued Order No. PSC-99-0758-FOF-TP. In that Order, the Commission denied BellSouth's motion for stay of Order No. PSC-98-1216-FOF-TP pending appeal.

Please forward the aforementioned amount, on or before May 17, 1999, to Intermedia Communications Inc., P.O. Box 915238, Orlando, Florida 32891-5238. You may direct any inquiries concerning this demand letter to the undersigned counsel. Intermedia reserves the right to pursue other legal options in the event BellSouth fails to timely comply with this demand letter.

Sincerely,

INTERMEDIA COMMUNICATIONS INC.

By: _____

Patrick Knight Wiggins
Its Attorney

cc: Walter D'Haeseleer
Catherine Bedell, Esq.
Heather Burnett Gold, Esq.
Julia Strow
Steve Brown
Lans Chase
Scott Sapperstein

Mary K. Keyer
General Attorney

BellSouth Telecommuni-
Legal Department, Suite
675 West Peachtree Str
Atlanta, Georgia 30308
Telephone: 404.387.4000
Facsimile: 404.387.4000

May 11, 1999

Patrick Wiggins, Esq.
Intermedia Communications, Inc.
2145 Delta Boulevard
Suite 200
Tallahassee, Florida 32303

Re: Demand for Payment of Reciprocal Compensation

Dear Mr. Wiggins:

I am responding to your letter dated May 4, 1999, to Nancy Sims, Director of Regulatory, demanding payment of reciprocal compensation for traffic terminated to internet service providers. Your letter refers to the interconnection agreement between BellSouth Telecommunications, Inc., and Intermedia, as well as the Florida Public Service Commission Order No. PSC-98-1216-FOF-TP issued September 15, 1998, and Order No. PSC-98-1216-FOF-TP issued April 20, 1999.

As you know, BellSouth has appealed the Order issued September 15, 1998, and has filed with the United States District Court for the Northern District of Florida a motion to stay that Order. Until this matter is fully resolved, BellSouth will continue the status quo with respect to Intermedia.

Sincerely,


Mary K. Keyer

cc: Nancy White
Nancy Sims

WIGGINS & VILLACORTA, P.A.
ATTORNEYS AT LAW

1ST OFFICE DRAWER 1657
TALLAHASSEE, FLORIDA 32302

2145 DELTA BOULEVARD, SUITE 200
TALLAHASSEE, FLORIDA 32303

TELEPHONE (850) 385 6007
FACSIMILE (850) 385 6008
INTERNET: wiggvill@netally.com

TELECOPY

DATE:  July 15, 1999

TO: Julia Strow 813 829 7723

FROM: Charles Pellegrini

This telecopy consists of 5 page(s) including this cover page. Please deliver as soon as possible. If you have any questions, please call (850) 385 6007.

BellSouth reciprocal compensation spreadsheets.

This message contains information that is confidential, may be protected by the attorney/client or other applicable privileges, and may constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender at 850 385 6007. Unauthorized use, dissemination, distribution, or reproduction of this message is strictly prohibited and may be unlawful.

Legal Department

NANCY B. WHITE
General Counsel-Florida

BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, Florida 32301
(904) 347-5555

VIA FEDERAL EXPRESS

July 2, 1999

Patrick K. Wiggins, Esq.
Wiggins & Villacorta
2145 Delta Boulevard
Suite 200
Tallahassee, FL 32303

Re: BellSouth Telecommunications, Inc. v. WorldCom Technologies,
Inc., et al., USCA No. 4:98cv352-RH

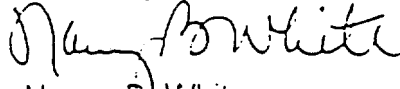
Dear Mr. Wiggins:

On June 1, 1999, the United States District Court for the Northern District of Florida denied BellSouth's request for a stay in the above captioned matters. Therefore, pursuant to Order No. PSC-98-1216-FOF-TP, issued by the Florida Public Service Commission on September 15, 1998, BellSouth is enclosing its check for \$12,723,883.38 for April, 1999 and all prior periods. A spreadsheet detailing BellSouth's calculation of this amount is also attached for your convenience. BellSouth will continue calculating and begin remitting monies owed to you on a monthly basis beginning with the June, 1999 bills.

It remains BellSouth's position that such calls to Internet Service Providers are interstate in nature and not subject to reciprocal compensation. Be advised that any payments made by BellSouth due to the denial of its request for stay does not constitute a waiver of BellSouth's position or a waiver of BellSouth's rights currently on appeal. When a final, non-appealable order is rendered upholding BellSouth's position, BellSouth will seek refund of any monies paid plus interest. In the unlikely event that BellSouth's position is not upheld by a final non-appealable order, BellSouth will bill your company for all monies due BellSouth for this interstate traffic.

If your client desires to discuss the specifics of the calculation, please contact Jerry Hendrix at (404) 927-7503.

Sincerely,


Nancy B. White

Enclosures

cc: David Smith, Esq.
Raoul Cantero, Esq.

155213



Explanation of Payment
(Detach and retain for your records)

EXHIBIT H
PAGE 4 OF 9

2-05968387/8

* SPECIAL HANDLING INSTRUCTIONS *
* Overnight / Alternate Mailing YQ8 *

GRSS	DISCOUNT	NET	INVOICE/DESCRIPTION/FOR QUESTIONS CALL
12,723,883.38	0.00	12,723,883.38	NA
		12,723,883.38	LAGRANGE, LORRAINE E (205) 714-0237
			PAID TO INTERMEDIA COMMUNICATIONS INC
			ON JUL 01 1999

⌞ To Detach Check, Fold and Tear Along Perforation ⌞

THE FACE OF THIS DOCUMENT IS MULTICOLORED WITH AN ARTIFICIAL WATERMARK ON THE BACK.

00010370757

2-05968387/8



Date: 07/01/99 64-79
611

Pay: *12,723,883 DOLLARS AND 38 CENTS

PAY ONLY → 12,723,883.38
TELECOMMUNICATIONS, INC. (CTSCIS)

VOID AFTER 180 DAYS

To: INTERMEDIA COMMUNICATIONS INC
The ATTN-ACCOUNTS RECEIVABLE
Orders PO BOX 915121
Of ORLANDO, FL 32891-5121

SUNTRUST

Phyllis Camp
Treasury Cashier
BELLSOUTH
Telecommunications, Inc.

000000000000 000000000000 000000000000



00000097073010000024040000103010733833847013010000402000001037076000000

Financial Services
P.O. Box 467623
Atlanta, GA 31146-7623

 **BELLSOUTH**

07/01/99

URGENT

NANCY WHITE
STE 1910
150 WEST FLAGLER ST
MIAMI, FL 33130

OPEN IMMEDIATELY

Local ISP Payment Due Intermedia

Columns	1	2	3	4	5
	Total MOUs Invoiced	ISP Factor	Local Rate	Total ISP Local Due	LPC at 1.0% per month
Feb-97	17,516,426	0.9	\$ 0.01028	\$ 182,061.97	
Mar-97	19,939,435	0.9	\$ 0.01028	\$ 184,479.85	\$ 1,620.62
Apr-97	22,527,478	0.9	\$ 0.01028	\$ 208,424.23	\$ 3,465.42
May-97	34,413,962	0.9	\$ 0.01028	\$ 318,397.98	\$ 5,549.66
Jun-97	44,135,205	0.9	\$ 0.01028	\$ 408,338.92	\$ 8,733.64
Jul-97	49,567,876	0.9	\$ 0.01028	\$ 458,801.99	\$ 12,817.03
Aug-97	58,136,603	0.9	\$ 0.01028	\$ 537,879.85	\$ 17,392.64
Sep-97	61,062,697	0.9	\$ 0.01028	\$ 664,952.07	\$ 22,759.23
Oct-97	71,802,321	0.9	\$ 0.01028	\$ 664,315.07	\$ 28,395.93
Nov-97	74,405,899	0.9	\$ 0.01028	\$ 688,403.38	\$ 35,024.00
Dec-97	85,832,175	0.9	\$ 0.01028	\$ 784,119.28	\$ 41,892.41
Jan-98	113,421,542	0.9	\$ 0.01028	\$ 1,049,376.11	\$ 49,815.57
Feb-98	111,986,235	0.9	\$ 0.01028	\$ 1,038,096.65	\$ 60,285.52
Mar-98	135,281,170	0.9	\$ 0.01028	\$ 1,251,621.38	\$ 70,622.97
Apr-98	148,785,338	0.9	\$ 0.01028	\$ 1,376,561.95	\$ 83,110.77
May-98	136,439,971	0.9	\$ 0.01028	\$ 1,262,342.61	\$ 98,834.86
Jun-98	17,065,675	0.9	\$ 0.00200	\$ 130,718.22	\$ 109,486.33
	108,656,674	0.9	\$ 0.00200	\$ 195,582.01	
	9,878,399	0.9	\$ 0.00200	\$ 17,781.12	
Jul-98	19,936,070	0.9	\$ 0.00200	\$ 114,358.93	\$ 110,769.89
	127,306,655	0.9	\$ 0.00200	\$ 229,151.98	
	11,163,384	0.9	\$ 0.00200	\$ 20,094.09	
Aug-98	22,045,623	0.9	\$ 0.00200	\$ 113,682.12	\$ 112,339.76
	155,759,111	0.9	\$ 0.00200	\$ 280,368.40	
	11,099,766	0.9	\$ 0.00200	\$ 19,979.58	
Sep-98	22,443,065	0.9	\$ 0.00200	\$ 140,397.52	\$ 114,211.89
	168,018,749	0.9	\$ 0.00200	\$ 302,433.75	
	10,302,585	0.9	\$ 0.00200	\$ 18,544.65	
Oct-98	23,077,272	0.9	\$ 0.00200	\$ 141,539.09	\$ 118,140.63
	171,655,628	0.9	\$ 0.00200	\$ 308,980.13	
	10,201,624	0.9	\$ 0.00200	\$ 18,362.92	
Nov-98	210,777,124	0.9	\$ 0.00200	\$ 379,398.82	\$ 116,722.50
Dec-98	154,977,667	0.9	\$ 0.00200	\$ 278,959.80	\$ 117,314.78
	64,064,865	0.9	\$ 0.00200	\$ 115,316.76	
Jan-99	267,928,952	0.9	\$ 0.00200	\$ 482,272.11	\$ 118,983.56
Feb-99	254,990,416	0.9	\$ 0.00200	\$ 458,982.75	\$ 124,152.55
Mar-99	308,363,755	0.9	\$ 0.00200	\$ 555,054.76	\$ 107,420.33
Apr	331,628,373	0.9	\$ 0.00200	\$ 600,631.07	\$ 108,290.40
Column Totals				\$ 15,435,987.67	\$

Local ISP Due	\$15,435,987.87
Plus Late Payment Charge	\$1,794,164.89
Gross Amount Due	\$17,230,152.56
Local Non ISP Over Paid	\$4,506,269.18
Net Local Due	\$12,723,883.38

Intermedia Non ISP Payments

Columns	1	2	3	4	5	6		
	Total MOUs Involved	Non ISP Factor	PLU	Correct Local Rate	Non-ISP Local Due	Local Rate Paid	Non-ISP Local \$ Paid	Difference In Amt Due & Amt Pd
Feb-97	17,516,426	0.1	0.750	\$ 0.01028	\$ 13,505.16	0.01028	\$13,505.16	\$ -
Mar-97	19,939,435	0.1	0.750	\$ 0.01028	\$ 15,373.30	0.01028	\$15,373.30	\$ -
Apr-97	22,527,478	0.1	0.750	\$ 0.01028	\$ 17,368.69	0.01028	\$17,368.69	\$ -
May-97	34,413,962	0.1	0.750	\$ 0.01028	\$ 26,533.16	0.01028	\$26,533.16	\$ -
Jun-97	44,135,205	0.1	0.750	\$ 0.01028	\$ 34,028.24	0.01028	\$34,028.24	\$ -
Jul-97	49,567,876	0.1	0.750	\$ 0.01028	\$ 38,216.83	0.01853	\$39,257.76	\$ (1,040.93)
Aug-97	58,136,603	0.1	0.750	\$ 0.01028	\$ 44,823.32	0.01853	\$46,044.19	\$ (1,220.87)
Sep-97	61,062,697	0.1	0.750	\$ 0.01028	\$ 47,079.34	0.01853	\$48,361.66	\$ (1,282.32)
Oct-97	71,802,321	0.1	0.750	\$ 0.01028	\$ 55,359.59	0.01853	\$56,867.44	\$ (1,507.85)
Nov-97	74,405,899	0.1	0.750	\$ 0.01028	\$ 57,388.95	0.01853	\$58,929.47	\$ (1,562.52)
Dec-97	85,832,175	0.1	0.750	\$ 0.01028	\$ 68,176.61	0.01853	\$67,979.08	\$ (1,802.47)
Jan-98	113,421,542	0.1	0.750	\$ 0.01028	\$ 87,448.01	0.01853	\$89,829.86	\$ (2,381.85)
Feb-98	111,986,235	0.1	0.750	\$ 0.01028	\$ 86,341.39	0.01853	\$88,693.10	\$ (2,351.71)
Mar-98	135,281,170	0.1	0.750	\$ 0.01028	\$ 104,301.78	0.01853	\$107,142.69	\$ (2,840.91)
Apr-98	148,785,338	0.1	0.997	\$ 0.01028	\$ 152,492.47	0.01853	\$156,645.96	\$ (4,153.49)
May-98	136,439,971	0.1	0.997	\$ 0.01028	\$ 139,839.51	0.01028	\$137,034.30	\$ 2,805.21
Jun-98	17,065,674	0.1	0.997	\$ 0.00200	\$ 3,402.90	0.01056	\$17,967.29	\$ (14,564.39)
	108,656,674	0.1	0.997	\$ 0.00200	\$ 21,666.14	0.01056	\$114,397.22	\$ (92,731.08)
	9,878,399	0.1	0.997	\$ 0.00200	\$ 1,989.75	0.01056	\$10,400.29	\$ (8,430.54)
Jul-98	19,936,070	0.1	0.997	\$ 0.00200	\$ 3,975.25	0.01028	\$20,022.91	\$ (16,047.66)
	127,306,655	0.1	0.997	\$ 0.00200	\$ 25,384.95	0.01028	\$127,861.20	\$ (102,476.25)
	11,163,384	0.1	0.997	\$ 0.00200	\$ 2,225.98	0.01028	\$11,212.01	\$ (8,986.03)
Aug-98	22,045,623	0.1	0.997	\$ 0.00200	\$ 4,395.90	0.01028	\$22,141.05	\$ (17,745.75)
	155,759,111	0.1	0.997	\$ 0.00200	\$ 31,058.37	0.01028	\$156,437.60	\$ (125,379.23)
	11,099,766	0.1	0.997	\$ 0.00200	\$ 2,213.29	0.01028	\$11,148.12	\$ (8,934.83)
Sep-98	22,443,065	0.1	0.997	\$ 0.00200	\$ 4,475.15	0.01056	\$23,154.78	\$ (18,679.63)
	168,018,749	0.1	0.997	\$ 0.00200	\$ 33,502.94	0.01056	\$173,346.96	\$ (139,844.02)
	10,302,585	0.1	0.997	\$ 0.00200	\$ 2,054.34	0.01056	\$10,629.30	\$ (8,574.96)
Oct-98	23,077,272	0.1	0.98	\$ 0.00200	\$ 4,523.15	0.0175	\$39,577.52	\$ (35,054.38)
	171,655,628	0.1	0.98	\$ 0.00200	\$ 33,844.50	0.0175	\$294,389.40	\$ (260,744.90)
	10,201,624	0.1	0.98	\$ 0.00200	\$ 1,999.52	0.0175	\$17,495.79	\$ (15,496.27)
Nov-98	210,777,124	0.1	0.98	\$ 0.00200	\$ 41,312.32	0.0175	\$361,482.77	\$ (320,170.45)

Intermedia Non ISP Payments

	Total MOUs Invoiced	Non ISP		Correct Local Rate	Non-ISP Local Due	Local Rate Paid	Non-ISP Local \$ Paid	Difference In Amt Due &	
		Factor	PLU					Amt Pd	
Dec-98	154,977,667	0.1	0.98	\$ 0.00200	\$ 30,375.62	0.0175	\$265,786.70	\$	(235,411.08)
	64,064,865	0.1	0.98	\$ 0.00200	\$ 12,556.71	0.0175	\$4,544.48	\$	8,012.23
Jan-99	267,928,952	0.1	0.978	\$ 0.00200	\$ 52,408.90	0.0175	\$17,779.67	\$	34,627.23
Feb-99	254,990,416	0.1	0.978	\$ 0.00200	\$ 49,878.13	0.0175	\$2,182,080.48	\$	(2,132,204.35)
Mar-99	308,363,755	0.1	0.978	\$ 0.00200	\$ 60,315.95	0.0175	\$527,764.57	\$	(467,448.62)
Apr-99	333,628,373	0.1	0.972	\$ 0.00200	\$ 64,857.38	0.0175	\$567,501.86	\$	(502,644.51)
Total Non-ISP Local Due					\$ 1,474,447.46		\$5,980,716.64	\$	(4,506,269.18)

WIGGINS & VILLACORTA, P.A.

ATTORNEYS AT LAW

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July 13, 1999

Ms. Nancy B. White
General Counsel - Florida
BellSouth Telecommunications, Inc.
150 South Monroe Street
Room 400
Tallahassee, FL 32301

Dear Ms. White:

This letter is sent in response to your letter dated July 2, 1999 to me, which accompanied BellSouth's check in the amount of \$12,723,883.38, payable to Intermedia Communications, Inc. ("the check"). By this letter we inform you that the amount of the check is not adequate to compensate Intermedia for the reciprocal compensation traffic that Intermedia has terminated for BellSouth through April 1999 and all prior periods.

After reviewing the spreadsheets that were submitted with the check, Intermedia is unable to discern how BellSouth computed the amounts due Intermedia. The total amount of the check, however, is well below the total amount of compensation BellSouth owes to Intermedia. In the near future, Intermedia will provide BellSouth with a detailed accounting of the amounts due.

Please be advised that Intermedia expressly reserves its right to take additional action against BellSouth for full payment of Intermedia's claim. The check should in no way be considered by BellSouth to be an accord and satisfaction of any dispute over the amount of reciprocal compensation due to Intermedia from BellSouth. As BellSouth acknowledged in your letter of July 2, 1999, the dispute between BellSouth and Intermedia over reciprocal compensation payments is ongoing, and may not be resolved for some time.

Moreover, if BellSouth continues to compute reciprocal compensation payments due to Intermedia for services provided in May 1999, and going forward, using the same formula that is reflected in the July 2 letter, please be advised that those payments will also fall far short of the amounts that BellSouth is obligated to pay Intermedia under the Interconnection Agreement executed between the two companies. As noted above, in the near future, we will provide you with additional information that demonstrate how to compute the correct amount of compensation due Intermedia, both retroactively, and going forward.

Sincerely,

Patrick Knight Wiggins
Patrick Knight Wiggins



July 26, 1999

BY FEDERAL EXPRESS

Nancy B. White
General Counsel – Florida
BellSouth Telecommunications, Inc.
160 South Monroe Street
Room 400
Tallahassee, FL 32301

Dear Ms. White:

I am sending this letter on behalf of Intermedia Communications Inc. This letter follows the letter from Patrick Wiggins to you dated July 13, 1999 ("July 13 letter"). In the July 13 letter, Intermedia informed you that it was cashing the check in the amount of \$12,723,883.38 that BellSouth tendered to Intermedia in response to the Florida Public Service Commission's Order No. PSC-98-1216-FIF-TP, but made clear that the amount of that check falls far short of the amount that BellSouth owes to Intermedia for the transport and termination in Florida of traffic subject to reciprocal compensation. Intermedia made clear in its July 13 letter that it expressly reserved its right to challenge the adequacy of BellSouth's payment, and to seek additional payments. In that letter, Intermedia also noted that it would provide a further explanation of Intermedia's position, and would detail how the amounts due to Intermedia for reciprocal compensation must be computed. This letter and its attachments provide that additional information.

**A balance of \$24,841,025.32 remains in the amount owed to
Intermedia through April 30, 1999**

**Reciprocal compensation payments of \$6,672,925.23 are owed to
Intermedia for May and June, 1999**

**BellSouth's total remaining amounts due to Intermedia for reciprocal compensation
traffic terminated through the end of June, 1999 is \$31,513,950.55**

In your letter accompanying BellSouth's check for \$12,723,883.38, you noted that the check was enclosed "for April, 1999 and all prior periods." The amount of the check, however, falls far short of the full amount that BellSouth owes to Intermedia for the transport and termination of traffic – including dial-up calls to ISPs – under the interconnection agreement between BellSouth and Intermedia. BellSouth accompanied the check with a spreadsheet purporting to show how the \$12.7 M figure was calculated. Intermedia is not clear as to how that figure was computed, and does not concede its accuracy.

In fact, the remaining balance owed by BellSouth to Intermedia for reciprocal compensation traffic in the state of Florida for periods up to April 30, 1999, is \$24,841,025.32. This amount reflects the total traffic minutes subject to reciprocal compensation that Intermedia terminated for BellSouth between February 1997 and April 1999, multiplied by the per-minute reciprocal compensation rate from the Intermedia/BellSouth interconnection agreement, which was in effect at all relevant times in the past, and which remains in effect at present. From this amount, Intermedia deducted amounts paid by BellSouth to date. As you may know, Intermedia has been sending BellSouth invoices for reciprocal compensation since February, 1997. BellSouth has made partial payments, based on its assumption that approximately 10% of the invoiced traffic represented non-ISP-bound traffic. As a result, BellSouth for the last two years has been paying Intermedia approximately 10% of the full amounts invoiced. These payments, in addition to the \$12,723,883.38, have been deducted from the computation of the remaining balance due Intermedia.

Intermedia has attached to this letter a spreadsheet that shows how the amounts due from BellSouth for reciprocal compensation traffic in Florida have been calculated. It shows the following computations:

- The attached spreadsheet is based on amounts invoiced by Intermedia for Florida traffic, at the reciprocal compensation rate of \$0.01056, which is the compensation rate negotiated by Intermedia and BellSouth that has been in effect at all relevant times in the past, and that remains in effect currently. The amounts originally invoiced are listed under the column entitled "Actual Billed Charges."
- There is one anomaly in the attached spreadsheet, which shows two entries for December 1998. This reflects the fact that some minutes were not correctly captured for the December invoice.
- As Intermedia shows in the attached spreadsheet, between February and September 1997, Intermedia erroneously billed amounts in excess of the effective reciprocal compensation rate – these amounts have been identified and backed out of the calculation of the current balance due, which is listed under the column titled "Corrected Charges."

- From the Actual Billed Charges, or when applicable, the Corrected Charges, Intermedia subtracted the amounts that have been paid by BellSouth. The amounts paid by BellSouth reflect a consistent 12% of the amounts invoiced by Intermedia – at the \$.01056 rate that was in effect since February, 1997, and that remains in effect to date. This apparently reflects BellSouth's estimation – which has not been corroborated by Intermedia – that approximately 88% of the minutes reported by Intermedia reflect calls to ISPs.
- Finally, Intermedia applies a late payment charge, which was computed by adding together the late payment charges listed on each invoice from February 1997 to April 1999. This amount is \$3,546,628.85, and is reflected in the row titled "Late Payment Charge."
- The total resulting from the computations described above is listed in the "Subtotal" row. From this amount, the \$12,723,883.38 that BellSouth tendered to Intermedia was subtracted. The net balance due Intermedia for reciprocal compensation traffic in Florida is listed in the row titled "Balance" and amounts to \$24,841,025.32.

In addition to the spreadsheet showing the computation of the \$24.8 M figure for amounts owing through April 30, 1999, we provide an additional spreadsheet that computes the amounts that BellSouth owes to Intermedia for Florida reciprocal compensation traffic for May and June of 1999. These figures were computed in the same way as the amounts described above. As the spreadsheet shows, these amounts total \$6,672,925.23.

In sum, the total amounts due Intermedia for reciprocal compensation traffic terminated up through and including June 30, 1999 is \$31,513,950.55.

We are in the process of preparing spreadsheets for the amounts due Intermedia in the other BellSouth states in which Intermedia has terminated reciprocal compensation traffic for BellSouth. These will be provided to the appropriate BellSouth personnel in the near future.

We look forward to following up with you at your earliest convenience to make arrangements for payment in full of the remaining balances due Intermedia for April 1999 and prior periods, and for May and June of 1999. On a going forward basis, we anticipate that BellSouth will pay Intermedia's monthly invoices in full in a timely manner, and that further spreadsheets will not be necessary.

Finally, please address all further correspondence regarding this matter -- including checks in payment for any reciprocal compensation amounts -- to our in-house counsel, at the following address:

Scott Sapperstein, Senior Policy Counsel
Intermedia Communications Inc.
3625 Queen Palm Drive
Tampa, Florida 33619

Thank you for your attention to this matter.

Sincerely,



Heather Burnett Gold
Vice President, Regulatory
and External Affairs

BELL SOUTH RECIPROCAL COMPENSATION BILLING- FLORIDA

Month	Messages	MOU	Rate	Actual Billed Charges	Bell South Payment To Date	Overbilled Amount	Corrected Charges	Amount Still Due
Feb-97	674,783	17,516,426	\$0.01056	\$184,973.46	\$22,533	317.13	\$184,656.33	\$162,123.18
Mar-97	763,086	19,939,435	\$0.01056	\$210,560.43	\$25,650	454.27	\$210,106.16	\$184,456.05
Apr-97	818,427	22,527,478	\$0.01056	\$237,890.17	\$28,979	399.99	\$237,490.18	\$208,510.80
May-97	1,186,304	34,413,962	\$0.01056	\$363,411.44	\$44,270	533.82	\$362,877.62	\$318,607.48
Jun-97	1,484,211	44,135,205	\$0.01056	\$466,067.76	\$56,778	526.52	\$465,541.24	\$408,766.65
Jul-97	1,721,589	49,672,978	\$0.01056	\$524,548.65	\$63,899	1,109.88	\$523,438.77	\$459,537.39
Aug-97	2,035,950	58,285,711	\$0.01056	\$515,497.11	\$74,979	1,574.58	\$513,922.53	\$538,943.72
Sep-97	2,065,145	61,254,312	\$0.01056	\$646,845.53	\$78,798	2,023.45	\$644,822.08	\$566,024.46
Oct-97	2,460,961	71,802,321	\$0.01056	\$758,232.51	\$92,367			\$665,865.91
Nov-97	21,604,514	74,405,899	\$0.01056	\$785,726.29	\$95,718			\$690,010.45
Dec-97	3,180,511	85,832,175	\$0.01056	\$806,387.77	\$110,415			\$795,973.15
Jan-98	4,255,022	113,421,542	\$0.01056	\$1,187,731.48	\$145,908			\$1,051,825.87
Feb-98	4,605,093	111,986,235	\$0.01056	\$1,182,574.64	\$144,059			\$1,038,515.41
Mar-98	5,481,678	135,281,170	\$0.01056	\$1,428,569.16	\$174,026			\$1,254,543.29
Apr-98	5,984,044	148,785,338	\$0.01056	\$1,571,173.17	\$191,398			\$1,379,775.63
May-98	5,403,179	138,439,971	\$0.01056	\$1,440,806.09	\$175,517			\$1,265,289.54
Jun-98	5,508,882	135,600,748	\$0.01056	\$1,431,943.90	\$174,437			\$1,257,506.93
Jul-98	8,543,050	158,406,109	\$0.01056	\$1,672,768.51	\$203,774			\$1,468,994.69
Aug-98	7,833,305	188,904,500	\$0.01056	\$1,994,831.52	\$243,007			\$1,751,824.54
Sep-98	8,265,385	200,764,399	\$0.01056	\$2,120,072.05	\$258,264			\$1,861,808.48
Oct-98	8,312,544	204,834,524	\$0.01056	\$2,164,108.57	\$263,828			\$1,900,480.54
Nov-98	8,334,011	211,777,124	\$0.01056	\$2,228,806.43	\$271,144			\$1,954,682.47
Dec-98	6,358,466	154,977,667	\$0.01056	\$1,838,564.16	\$199,363			\$1,437,200.70
Dec-98	2,649,840	84,064,885	\$0.01056	\$567,524.97	\$582,413			\$584,117.85
Jan-99	10,388,354	287,928,952	\$0.01056	\$2,829,328.73	\$344,684			\$2,484,644.59
Feb-99	10,436,380	254,990,416	\$0.01056	\$2,892,698.78	\$328,020			\$2,384,678.80
Mar-99	11,837,708	308,363,755	\$0.01056	\$3,258,321.25	\$396,880			\$2,859,841.73
Apr-99	12,774,129	333,628,373	\$0.01056	\$3,523,115.62	\$429,180			\$3,093,935.66
Total	183,068,551	3,670,041,690		\$38,746,079.18	\$4,719,860	6,839.64	\$38,739,240	\$34,078,276.84
Late Payment Charge				\$3,547,263.81		634.96	\$3,546,628.85	\$3,546,628.85
Subtotal				\$42,292,342.97	\$4,719,860	7,574.60	\$42,284,768	\$37,664,908.70
7/99 Check								\$12,723,863.38
Balance								\$24,941,025.32

BELL SOUTH RECIPROCAL COMPENSATION BILLING- FLORIDA (continued)

Month	Messages	MOU	Rate	Actual Billed Charges	Bell South Payment To Date	Amount Still Due
May-89	13,224,954	349,145,809	\$0.01056	\$3,686,979.74	\$449,142	\$3,237,838.14
Jun-89	14,119,279	366,439,975	\$0.01056	\$3,869,606.14	\$471,389	\$3,398,217.29
Total	27,344,233	715,585,784		\$7,556,585.88	\$920,530	\$6,636,055.49
Lifo Payment Charge				\$36,869.80		\$36,869.80
Balance				\$7,593,455.68	\$920,530	\$6,672,925.23

- Notes:
- ¹ BellSouth payments to date were received on a regional basis. Florida's payment to April is based on the percent usage in Florida against the total region.
 - ² The overbilled amounts are due to the incorrect billing of some Tampa MOUs during the first eight months. The problem was corrected but an adjustment has not been made. The corrected charges reflect the removal of the Tampa-only charges.
 - ³ The highlighted row indicates a backbilled amount for usage not included on the initial invoice for that particular month. The actual invoice for the backbilling was submitted in a later month.

Miller/Canis
7/20/89